



Seventieth Judicial District of Michigan

Courthouse
111 S. Michigan Ave.
Saginaw, Michigan 48602
(989) 790-5378
Fax (989) 790-5589

KYLE HIGGS TARRANT
DISTRICT JUDGE

June 15, 2005

Members of the House Judiciary Committee
Re: HB 4796, 4797, 4798, 4799, 4800

A preliminary examination is a critical stage of the criminal process. A preliminary examination serves a plethora of valuable purposes. It brings together for the first time the witnesses, defendant, and the attorneys. It provides for evaluation of the case. It sets the stage for plea negotiations. It provides the court with the opportunity to review bonds and address issues of competency.

Eliminating preliminary examinations does not eliminate the above described events from happening, but shifts the burden to resolve all issues which the District Court now resolves to the Circuit Court. Inasmuch as there is no corollary procedure proposed for the Circuit Court, it would appear to delay to the trial date decisions regarding disposition which cannot be made without the victim's and witnesses' presence. Attached please find the statistics for Saginaw County for 2004 and 2005. 37% of all felony cases were disposed of by the District Court in 2004. 36% of all felony cases were disposed of in the District Court to date in 2005.

Many claims of cost savings have been attributed to eliminating preliminary examinations for non-specified felonies. The claims beg many questions and considerations. It is the prosecutor who currently decides who is needed to testify at a preliminary examination. At trial all witnesses must appear. Police time is not assessed in terms of actual time for off duty officers but begins at two hours. It is unlikely that eliminating preliminary examinations as described in the proposal will affect a drug unit's court time to any significant degree if that unit's focus is on crimes of delivery and not possession. There is no logical support for the position that eliminating preliminary examinations will decrease the time for incarcerated persons to be detained or the cases to be processed in the Circuit Court. If anything, it is more logical to conclude that persons would be detained longer waiting for trial and that cases will take longer to dispose of if the Circuit Court is required to manage a greater caseload. In tabulating costs it is necessary to consider the additional costs of jurors' fees associated with disposition on the trial date.

This proposal distances victims from the criminal system. Delays take an emotional toll. Delays erode confidence and memories. Delays may put a victim at risk. A preliminary examination triggers an event whereby the victim can meet with and consult with a prosecutor immediately after a crime. Issues of contact orders and victim's safety can be addressed.

Eliminating the preliminary examinations can impact the defendant in several different ways. It deprives him or her of a possible speedy disposition if the case would have been dismissed at the preliminary examination. There is an advantage in terms of case evaluation if live testimony can be taken. The preliminary examination may result in an amendment which changes the seriousness of the event charged.

Thank you for considering these important effects of the proposed legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kyle Higgs Tarrant".

Kyle Higgs Tarrant
Chief Judge

2004
PRELIMINARY EXAMINATIONS

Felony cases Processed	- 2,221	
Preliminary Examinations conducted	- 387	17%
Preliminary Examinations waived	- 1,025	46%
Pled / Sentenced in District Court	- 486	22%
Dismissal / Nolle Prosequi in District Court	- 323	15%

54% taken care of at District Court level

2005
PRELIMINARY EXAMINATIONS

Felony cases Processed	- 1,009	
Preliminary Examinations conducted	- 152	15%
Preliminary Examinations waived	- 498	49%
Pled / Sentenced in District Court	- 210	21%
Dismissal / Nolle Prosequi in District Court	- 149	15%

51% taken care of at District Court level